IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI.WRIT PETITION NO.111 OF 2007

M.K.Kayani ..Petitioner

Vs.

A.D.Elavia & Anr. ..Respondents

...

Mr.D.S.Chandnani i/b Lexim & Associates
for Petitioner
Mr.Girish Kedia Advocate for Respondent No.1
Smt.V.R.Bhosale, A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : FEBRUARY 14, 2007

P.C.

1. Heard the learned advocate for the petitioner, learned advocate for respondent no.1 and the learned A.P.P. for the State.

2. The petitioner has been convicted under Section 138 of Negotiable Instruments Act in Cri.Complaint No.511/SS/2005, by the learned Special Metropolitan Magistrate and Judge of the Small Causes Court. By the said judgment and order, the petitioner was sentenced to pay a fine of Rs.3,00,000/- in default S.I. for three months. Out of the said amount, an amount of Rs.2,00,000/- was to be paid to the

complainant as compensation. Being aggrieved thereby, the petitioner preferred an appeal before the Sessions Court i.e. Criminal Appeal No.870 of 2006. The said appeal is pending. By order dated 15.12.2006, the learned Sessions Judge suspended the sentence of imprisonment on the applicant depositing Rs.1,00,000/- within two months. Being aggrieved by the order of the learned Judge directing the petitioner to deposit the amount of Rs.1,00,000/-, this petition has been preferred.

3. It is seen that out of the total amount of Rs.3,00,000/-, the Sessions Judge has directed the applicant to deposit only an amount of Rs.1,00,000/-. The said amount is reasonable. However, the learned counsel for the petitioner states that this is not the only case in which the petitioner is facing prosecution under Section 138 of N.I.Act and there is another case in which the petitioner has been convicted and asked to pay Rs.3,00,000/- by the Sessions Court as a condition precedent to suspend his sentence. In view of this, the learned advocate for the petitioner has prayed that the amount may be reduced. Looking to this fact, the amount of Rs.1,00,000/- is reduced

to Rs.50,000/-. The amount of Rs.50,000/- shall be deposited within a period of six weeks from today. On the amount being deposited, the learned Sessions Judge shall hear and dispose of the appeal. The sentence is suspended for a period of six weeks and thereafter, on deposit of Rs.50,000/- till the final disposal of the appeal. Appeal to be heard in accordance with law.

4. Petition is disposed of in the above terms.

[Smt. V.K.Tahilramani, J.]